

---

## A BILL FOR AN ACT

---

RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE  
INTERNAL REVENUE CODE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The purpose of this Act is to conform Hawaii  
2 income tax law to the Internal Revenue Code.

3       SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5       "(a) For all taxable years beginning after December 31,  
6 ~~[2013,]~~ 2014, as used in this chapter, except as provided in  
7 section 235-2.35, "Internal Revenue Code" means subtitle A,  
8 chapter 1, of the federal Internal Revenue Code of 1986, as  
9 amended as of December 31, ~~[2013,]~~ 2014, as it applies to the  
10 determination of gross income, adjusted gross income, ordinary  
11 income and loss, and taxable income, except those provisions of  
12 the Internal Revenue Code and federal public laws which,  
13 pursuant to this chapter, do not apply or are otherwise limited  
14 in application and except for the provisions of Public Law 109-  
15 001, which apply to section 170 of the Internal Revenue Code.  
16 The provisions of Public Law 109-001 to accelerate the deduction  
17 for charitable cash contributions for the relief of victims of



1 the 2004 Indian Ocean tsunami are applicable for the calendar  
2 year that ended December 31, 2004, and the calendar year ending  
3 December 31, 2005.

4 Sections 235-2, 235-2.1, and 235-2.2 shall continue to be  
5 used to determine:

6 (1) The basis of property, if a taxpayer first determined  
7 the basis of property in a taxable year to which these  
8 sections apply, and if the determination was made  
9 before January 1, 1978; and

10 (2) Gross income, adjusted gross income, ordinary income  
11 and loss, and taxable income for a taxable year to  
12 which these sections apply where the taxable year  
13 begins before January 1, 1978."

14 SECTION 3. Section 235-2.4, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§235-2.4 Operation of certain Internal Revenue Code**  
17 **provisions; sections 63 to 530.** (a) Section 63 (with respect  
18 to taxable income defined) of the Internal Revenue Code shall be  
19 operative for the purposes of this chapter, subject to the  
20 following:



(1) Section 63(c)(1)(B) (relating to the additional standard deduction), 63(c)(1)(C) (relating to the real property tax deduction), 63(c)(1)(D) (relating to the disaster loss deduction), 63(c)(1)(E) (relating to the motor vehicle sales tax deduction), 63(c)(4) (relating to inflation adjustments), 63(c)(7) (defining the real property tax deduction), 63(c)(8) (defining the disaster loss deduction), 63(c)(9) (defining the motor vehicle sales tax deduction), and 63(f) (relating to additional amounts for the aged or blind) of the Internal Revenue Code shall not be operative for purposes of this chapter;

(2) Section 63(c)(2) (relating to the basic standard deduction) of the Internal Revenue Code shall be operative, except that the standard deduction amounts provided therein shall instead mean:

(A) \$4,400 in the case of:

(i) A joint return as provided by section 235-93; or

(ii) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code);



1 (B) \$3,212 in the case of a head of household (as  
2 defined in section 2(b) of the Internal Revenue  
3 Code);

4 (C) \$2,200 in the case of an individual who is not  
5 married and who is not a surviving spouse or head  
6 of household; or

7 (D) \$2,200 in the case of a married individual filing  
8 a separate return;

9 (3) Section 63(c)(5) (limiting the basic standard  
10 deduction in the case of certain dependents) of the  
11 Internal Revenue Code shall be operative, except that  
12 the limitation shall be the greater of \$500 or the  
13 individual's earned income; and

14 (4) The standard deduction amount for nonresidents shall  
15 be calculated pursuant to section 235-5.

16 (b) Section 68 (with respect to the overall limitation on  
17 itemized deductions) of the Internal Revenue Code shall be  
18 operative; provided that the thresholds shall be those that were  
19 operative for federal tax year 2009.

20 (c) Section 72 (with respect to annuities; certain  
21 proceeds of endowment and life insurance contracts) of the



1 Internal Revenue Code shall be operative for purposes of this  
2 chapter and be interpreted with due regard to section 235-7(a),  
3 except that the ten per cent additional tax on early  
4 distributions from retirement plans in section 72(t) shall not  
5 be operative for purposes of this chapter.

6 (d) Section 85 (with respect to unemployment compensation)  
7 of the Internal Revenue Code shall be operative for purposes of  
8 this chapter, except that section 85(c) shall not be operative  
9 for purposes of this chapter.

10 (e) Section 108 (with respect to income from discharge of  
11 indebtedness) of the Internal Revenue Code shall be operative  
12 for purposes of this chapter, except that section 108(i)  
13 (relating to deferral and ratable inclusion of income arising  
14 from business indebtedness discharged by the reacquisition of a  
15 debt instrument) shall not be operative for purposes of this  
16 chapter.

17 (f) Section 121 (with respect to exclusion of gain from  
18 sale of principal residence) of the Internal Revenue Code shall  
19 be operative for purposes of this chapter, except that for the  
20 election under section 121(f), a reference to section 1034



1 treatment means a reference to section 235-2.4(s) in effect for  
2 taxable year 1997.

3 (g) Section 132 (with respect to certain fringe benefits)  
4 of the Internal Revenue Code shall be operative for purposes of  
5 this chapter, except that the provision in section 132(f)(2)  
6 that equalizes the dollar amounts for sections 132(f)(2)(A) and  
7 (B) shall not be operative and except that section 132(n) shall  
8 not apply to United States Department of Defense Homeowners  
9 Assistance Program payments authorized by the American Recovery  
10 and Reinvestment Act of 2009.

11 (h) Section 163 (with respect to interest) of the Internal  
12 Revenue Code shall be operative for the purposes of this  
13 chapter, except that provisions in section 163(d)(4)(B)  
14 (defining net investment income to exclude dividends), section  
15 163(e)(5)(F) (suspension of applicable high-yield discount  
16 obligation (AHYDO) rules) and section 163(i)(1) as it applies to  
17 debt instruments issued after January 1, 2010, (defining AHYDO)  
18 shall not be operative for the purposes of this chapter.

19 (i) Section 164 (with respect to taxes) of the Internal  
20 Revenue Code shall be operative for the purposes of this  
21 chapter, except that:



(1) Section 164(a)(6) and (b)(6) shall not be operative for the purposes of this chapter;

(2) The deductions under section 164(a)(3) and (b)(5) shall not be operative for corporate taxpayers and shall be operative only for the following individual taxpayers:

(A) A taxpayer filing a single return or a married person filing separately with a federal adjusted gross income of less than \$100,000;

(B) A taxpayer filing as a head of household with a federal adjusted gross income of less than \$150,000; and

(C) A taxpayer filing a joint return or as a surviving spouse with a federal adjusted gross income of less than \$200,000; and

(3) Section 164(a)(3) shall not be operative for any amounts for which the credit under section 235-55 has been claimed.

(j) Section 165 (with respect to losses) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the amount prescribed by sections 165(h)(1)



1 (relating to the limitation per casualty) of the Internal  
2 Revenue Code shall be a \$100 limitation per casualty, and  
3 section 165(h)(3)(A) and (B) (both of which relate to special  
4 rules for personal casualty gains and losses in federally  
5 declared disasters) of the Internal Revenue Code shall not be  
6 operative for the purposes of this chapter. Section 165 as  
7 operative for this chapter shall also apply to losses sustained  
8 from the sale of stocks or other interests issued through the  
9 exercise of the stock options or warrants granted by a qualified  
10 high technology business as defined in section 235-7.3.

11 (k) Section 168 (with respect to the accelerated cost  
12 recovery system) of the Internal Revenue Code shall be operative  
13 for purposes of this chapter, except that sections 168(j)  
14 (relating to property on Indian reservations), 168(k) (relating  
15 to the special allowance for certain property acquired during  
16 the period specified therein), 168(m) (relating to the special  
17 allowance for certain reuse and recycling property), and 168(n)  
18 (relating to the special allowance for qualified disaster  
19 assistance property) of the Internal Revenue Code shall not be  
20 operative for purposes of this chapter.





1       (1) Section 172 (with respect to net operating loss  
2 deductions) of the Internal Revenue Code shall be operative for  
3 purposes of this chapter, as further provided in section 235-  
4 7(d), except that section 172(b)(1)(J) and (j) (both of which  
5 relate to qualified disaster losses) of the Internal Revenue  
6 Code shall not be operative for purposes of this chapter.

7       (m) Section 179 (with respect to the election to expense  
8 certain depreciable business assets) of the Internal Revenue  
9 Code shall be operative for purposes of this chapter, except as  
10 provided in this subsection:

11       (1) The aggregate cost provided in section 179(b)(1) which  
12 may be taken into account under section 179(a) for any  
13 taxable year shall not exceed \$25,000;

14       (2) The amount at which the reduction in limitation  
15 provided in section 179(b)(2) begins shall exceed  
16 \$200,000 for any taxable year; and

17       (3) The following shall not be operative for purposes of  
18 this chapter:

19       (A) Defining section 179 property to include computer  
20 software in section 179(d)(1);

21       (B) Inflation adjustments in section 179(b)(5);



1 (C) Irrevocable election in section 179(c)(2); and

2 (D) Special rules for qualified disaster assistance  
3 property in section 179(e).

4 (n) Section 198A (with respect to the expensing of  
5 qualified disaster assistances expenses) of the Internal Revenue  
6 Code shall not be operative for purposes of this chapter.

7 (o) Section 219 (with respect to retirement savings) of  
8 the Internal Revenue Code shall be operative for the purpose of  
9 this chapter. For the purpose of computing the limitation on  
10 the deduction for active participants in certain pension plans  
11 for state income tax purposes, adjusted gross income as used in  
12 section 219 as operative for this chapter means federal adjusted  
13 gross income.

14 (p) Section 220 (with respect to medical savings accounts)  
15 of the Internal Revenue Code shall be operative for the purpose  
16 of this chapter, but only with respect to medical services  
17 accounts that have been approved by the Secretary of the  
18 Treasury of the United States.

19 (q) Section 265 (with respect to expenses and interest  
20 relating to tax-exempt income) of the Internal Revenue Code  
21 shall be operative for purposes of this chapter; except that



1 section 265(b)(3)(G) and (7) shall not be operative and section  
2 265 shall not apply to expenses for royalties and other income  
3 derived from any patents, copyrights, and trade secrets by an  
4 individual or a qualified high technology business as defined in  
5 section 235-7.3. Such expenses shall be deductible.

6 (r) Section 382 (with respect to limitation on net  
7 operating loss carryforwards and certain built-in losses  
8 following ownership change) of the Internal Revenue Code shall  
9 be operative for the purposes of this chapter, except that  
10 section 382(n) shall not be operative for purposes of this  
11 chapter.

12 (s) Section 408A (with respect to Roth Individual  
13 Retirement Accounts) of the Internal Revenue Code shall be  
14 operative for the purposes of this chapter, except that section  
15 408A(d)(3)(A)(iii) shall not be operative for purposes of this  
16 chapter. For the purposes of determining the aggregate amount  
17 of contributions to a Roth Individual Retirement Account or  
18 qualified rollover contribution to a Roth Individual Retirement  
19 Account from an individual retirement plan other than a Roth  
20 Individual Retirement Account, adjusted gross income as used in



1 section 408A as operative for this chapter means federal  
2 adjusted gross income.

3 (t) In administering the provisions of sections 410 to 417  
4 (with respect to special rules relating to pensions, profit  
5 sharing, stock bonus plans, etc.), sections 418 to 418E (with  
6 respect to special rules for multiemployer plans), and sections  
7 419 and 419A (with respect to treatment of welfare benefit  
8 funds) of the Internal Revenue Code, the department of taxation  
9 shall adopt rules under chapter 91 relating to the specific  
10 requirements under those sections and to other administrative  
11 requirements under those sections as may be necessary for the  
12 efficient administration of sections 410 to 419A.

13 In administering sections 401 to 419A (with respect to  
14 deferred compensation) of the Internal Revenue Code, Public Law  
15 93-406, section 1017(i), shall be operative for the purposes of  
16 this chapter.

17 In administering section 402 (with respect to the  
18 taxability of beneficiary of employees' trust) of the Internal  
19 Revenue Code, the tax imposed on lump sum distributions by  
20 section 402(e) of the Internal Revenue Code shall be operative  
21 for the purposes of this chapter and the tax imposed therein is



1 hereby imposed by this chapter at the rate determined under this  
2 chapter.

3 (u) In administering section 403 (with respect to taxation  
4 of employee annuities) of the Internal Revenue Code, any funds  
5 that represent pre-tax employee deferrals or contributions that  
6 are distributed from the annuity and used solely to obtain  
7 retirement credits under the state employees' retirement system  
8 shall not be treated as a rollover for purposes of section  
9 403(b)(8)(A) of the Internal Revenue Code, and those funds shall  
10 be subject to income tax under this chapter.

11 (v) Section 451 (which provides general rules for taxable  
12 year of inclusion) of the Internal Revenue Code shall be  
13 operative, except that the provisions of sections 451(i)(3) and  
14 451(i)(6), as they relate to a qualified electric utility, shall  
15 not be operative for purposes of this chapter.

16 (w) In administering section 457 (with respect to  
17 compensation plans of state and local governments and tax-exempt  
18 organizations) of the Internal Revenue Code, any funds that  
19 represent pre-tax employee deferrals or contributions that are  
20 distributed from the deferred compensation plan and used solely  
21 to obtain retirement credits under the state employees'



1 retirement system shall not be treated as a rollover for  
2 purposes of section 457(e)(16)(A) of the Internal Revenue Code  
3 and those funds shall be subject to income tax under this  
4 chapter.

5 (x) Section 468B (with respect to special rules for  
6 designated settlement funds) of the Internal Revenue Code shall  
7 be operative for the purposes of this chapter and the tax  
8 imposed therein is hereby imposed by this chapter at a rate  
9 equal to the maximum rate in effect for the taxable year imposed  
10 on estates and trusts under section 235-51.

11 (y) Section 469 (with respect to passive activities and  
12 credits limited) of the Internal Revenue Code shall be operative  
13 for the purposes of this chapter. For the purpose of computing  
14 the offset for rental real estate activities for state income  
15 tax purposes, adjusted gross income as used in section 469 as  
16 operative for this chapter means federal adjusted gross income.

17 (z) Sections 512 to 514 (with respect to taxation of  
18 business income of certain exempt organizations) of the Internal  
19 Revenue Code shall be operative for the purposes of this chapter  
20 as provided in this subsection.



1 "Unrelated business taxable income" means the same as in  
2 the Internal Revenue Code, except that in the computation  
3 thereof sections 235-3 to 235-5, and 235-7 (except subsection  
4 (c)), shall apply, and in the determination of the net operating  
5 loss deduction there shall not be taken into account any amount  
6 of income or deduction that is excluded in computing the  
7 unrelated business taxable income. Unrelated business taxable  
8 income shall not include any income from a legal service plan.

9 For a person described in section 401 or 501 of the  
10 Internal Revenue Code, as modified by section 235-2.3, the tax  
11 imposed by section 235-51 or 235-71 shall be imposed upon the  
12 person's unrelated business taxable income.

13 (aa) Section 521 (with respect to cooperatives) and  
14 subchapter T (sections 1381 to 1388, with respect to  
15 cooperatives and their patrons) of the Internal Revenue Code  
16 shall be operative for the purposes of this chapter as to any  
17 cooperative fully meeting the requirements of section 421-23,  
18 except that Internal Revenue Code section 521 cooperatives need  
19 not be organized in Hawaii.

20 (bb) Sections 527 (with respect to political  
21 organizations) and 528 (with respect to certain homeowners



1 associations) of the Internal Revenue Code shall be operative  
2 for the purposes of this chapter and the taxes imposed in each  
3 section are hereby imposed by this chapter at the rates  
4 determined under section 235-71.

5 (cc) Section 529 (with respect to qualified tuition  
6 programs) shall be operative for the purposes of this chapter,  
7 except that sections 529(c)(6) and 529(e)(3)(A)(iii) shall not  
8 be operative.

9 (dd) Section 529A (with respect to qualified able  
10 programs) shall be operative for the purposes of this chapter,  
11 except that section 529A(c)(3) shall not be operative.

12 [~~dd~~] (ee) Section 530 (with respect to Coverdell  
13 education savings accounts) of the Internal Revenue Code shall  
14 be operative for the purposes of this chapter. For the purpose  
15 of determining the maximum amount that a contributor could make  
16 to an education individual retirement account for state income  
17 tax purposes, modified adjusted gross income as used in section  
18 530 as operative for this chapter means federal modified  
19 adjusted gross income as defined in section 530."

20 SECTION 4. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.





1       SECTION 5. This Act, upon its approval, shall apply to  
2 taxable years beginning after December 31, 2014.



**Report Title:**

Income Tax; Conformity to the Internal Revenue Code for 2014

**Description:**

Conforms Hawaii income tax law with amendments made to the Internal Revenue Code as of December 31, 2014. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

